Local Authorities Pension Plan Board

1990

ANNUAL

REPORT

Alberta

GOVERNMENT PENSION BOARDS

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June 1991

The Honourable Dick Johnston
Provincial Treasurer

Sir:

I have the honour to submit to you the annual report of the Local Authorities Pension Plan Board for the period January 1, 1990 to December 31, 1990. The report outlines the roles and responsibilities of the Local Authorities Pension Plan Board under the legislation governing the plan.

Board activities, during the period under review, with respect to its appellate and advisory roles are described in the report.

Yours truly,

J. E. Faries, FCIS, PAdm.
Chairman

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INTRODUCTION

The calendar year 1990 is the fifth year of operation of the Local Authorities Pension Plan Board. This Board was established on November 1, 1985 under the Local Authorities Pension Plan Act. At March 31, 1991 there were 83,056 active participants, 15,260 pensions in payment and 492 contributing employer groups.

The main responsibilities of the Board are:

- to hear appeals of administrative decisions made on pensions by the Minister,
- to extend time limits under section 10 of the Act and under reciprocal agreements, and
- to advise the Minister responsible for public service pensions on matters relating to the Plan.

The Honourable Dick Johnston, Provincial Treasurer, is the Minister charged with the administration of the public service pensions plans. The Local Authorities Pension Plan is administered by Alberta Treasury, Payroll and Pensions Division.

The Board is made up of seven members nominated by stakeholders and appointed by the Lieutenant Governor in Council to represent employees, employers and the Government. The Chairman is independent and is charged with the responsibility to chair four other pension plan Boards.[1]

The roles of the Board are split between quasi-judicial and advisory. The quasi-judicial role of the Board is summarized in the section Summary of Appeals. A sample of appeal cases is provided for information. The advisory role is discussed in the section Advice. In addition, a detailed summary of specific recommendations is found in Appendix C regarding:

1. Funding
2. COLA
3. Pension Reform
4. Disability Provision
5. Prior Service
6. Division of Pension Benefits on Marriage Breakdown

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[1] Public Service Pension Plan, Public Service Management Pension Plan, Universities Academic Pension Plan and Special Forces Pension Plan Boards. He is Vice-Chairman, Board of Administrators Teachers' Retirement Fund.

CHAIRMAN'S REPORT

In preparing my comments for the year 1990, I pause to reflect on the Alberta Pension System over the years. For many years Alberta's Public Service Pension System was one of the leaders in Canada. Many other provinces looked to the Alberta System for leadership. This was evident when Alberta took the lead role in forming the Association of Canadian Public Service Pension Advisors in 1973. The main issue of that day was the importance of permitting public service employees to move from one level of government to another. For the most part, the goal of the first annual conference has been met. More recently, general portability of pensions has become one of the key issues in pension reform.

In addition, new issues have emerged. The financial risk of the existing system has grown to the point where it is questionable whether it can be managed on the strength of a government guarantee alone. In attempting to find new ways of managing this growing financial risk, we must consistently remind ourselves that pensions are no longer a reward for long and faithful service; it is now public policy that they be considered as deferred wages. A pension plan is a benefit offered to current employees to help them face old age knowing that they have a certain level of purchasing power. To ignore this would be "breaking faith" with public servants who over their careers have faithfully served the government and taxpayers. Any modification to the plan must be done in a way to preserve the integrity of the plan.

The pension system in general is in the midst of reform as sponsors and beneficiaries attempt to strike a balance between risk and promises. Various provincial jurisdictions have moved ahead with private and public sector reform - often the result of long processes of consultation and consensus building. The federal government is also showing an interest in pensions as witnessed by its "Tax Reform" package, which attempts to bring increased equity into the retirement system. Many of the recommendations summarized in this report attempt to respond to these issues within the context of the Local Authorities Pension Plan.

Change, however, is a difficult process to initiate and manage. There is risk involved in change, but there is greater risk involved in not changing when it is required. Much like a frog in water who fails to respond to the water being heated until it is too late, failure to respond to a changing environment can have catastrophic results.

Apart from making specific recommendations, the Board has focused on the need for change and the process of bringing about change. The annual seminar brought together Board members, employees, employers, retired public servants and government representatives to address a basic question:

"How well do the current structures which deliver public sector pensions in Alberta serve its public servants and taxpayers, and is there a better way?"

The discussion was led by a panel which included Mr. Keith Ambachtsheer, a highly respected consultant in the industry, Mr. Al Reeve, the Executive Director of the Ontario Municipal Employees Retirement System (OMERS) and Mr. Al O'Brien, the Deputy Provincial Treasurer of Alberta. The perspectives presented by the speakers and participants created a greater sense of awareness among the various stakeholders. A consensus emerged that now is the time for change in a managed fashion.

With that agreement in mind, the Board sponsored a proposal to institute a formal process to decide how best to deliver public service pensions in the 1990's starting with the basic principles of governance and funding. The view was that such a process should consider

1. Understanding current pension delivery structures and alternatives to them.

2. Weighing the pros and cons of available choices.

3. Deciding the future direction and delivery structures to meet future needs.

Changes experienced in other jurisdictions have made available a wide choice of alternatives. Public sector pension systems now vary substantially across the country as each province developed different models. Weighing the pros and cons of each and deciding which model should be used requires a formal process. That process should be based firmly on consultation.

The Minister has indicated that changes to "funding, benefits and administrative provisions" in addition to changes required to comply with federal tax reform are being contemplated.

If adjustments are to be made to the plan, it is important that adequate time be committed for consultation with all parties involved. Changes must insure that the plan is viable and meets the needs of all beneficiaries for years to come. A clear plan must be established to deal with the accrued liabilities of the plan, funding of current service and benefits for members. The incidence of risk must be examined and all beneficiaries given adequate tools to manage the risk they are asked to bear. If these steps are not taken, then the value of the plan may be lost to those beneficiaries who need it the most.

THE BOARD

The Board consists of representatives of various organizations participating in the plan. The employees are represented by members who are nominated by the Alberta Federation of Labour and the United Nurses of Alberta. Employers are represented by nominees of the Alberta Urban Municipalities Association of Alberta and the Alberta Hospital Association. The public at large is represented by a member appointed by the Lieutenant Governor in Council.

The procedure used in filling vacancies on the Boards requires nomination of individuals by a recognized representative group. Usually two nominations for each vacancy are encouraged and from those nominated the Lieutenant Governor in Council appoints one. Individuals serve for a period of four years. The appointments are made on a modified rotation.

The Board currently consists of:

J. E. Faries

Mr. Jerry Faries was appointed Chairman effective November 1, 1985. He has considerable background in pension policy and administration having served over fifteen years as Director of the Pension Administration until December 31, 1979. He was a founding director of the Association of Canadian Pension Management and was involved as Chairman of the Advisory Board of the Employee Benefit Certificate Program of the University of Alberta. He also holds several senior positions on other boards and community organizations. His term of office on the Board expires on April 1, 1992.

A. F. (Chip) Collins

"Chip" Collins served as Deputy Provincial Treasurer from 1972 until his retirement in 1984. Mr. Collins was appointed a Board Member and Vice-Chairman of the Board effective November 1, 1985. He brings to the Board extensive financial and administrative expertise as well as senior public service experience. Mr. Collins is a government representative. His term of office expired April 1, 1991.

A. G. Bruckner

Mr. Gunter Bruckner was appointed to the Board effective November 1, 1985. He worked as an Automotive Mechanic with Calgary Transit and held various positions with the Amalgamated Transit Union and Calgary Civic Employees Benefit Society. He retired as full time Financial Secretary/Treasurer and Business Agent with Amalgamated Transit Union (ATU) Local 583. His term of office expires April 1, 1992.

S. D. Ewart-Johnson

Mrs. Ewart-Johnson holds a nursing diploma with the Royal Alexandra School of Nursing, a certificate for the Nursing Unit Administration Extension Course and the Management and Administration (Honours) Certificate issued by the Canadian Institute of Management. She is pursuing a Bachelor of Administration degree with Athabasca University. She started her career as a Staff Nurse and progressed to the positions of Manager of Labour Relations and Assistant Director of Employment and Labour Relations. She then assumed the responsibility as Consultant/Negotiator with the Alberta Hospital Association. She is currently employed with AHA as Vice-President, Employee Relations & Administration. Her term of office expires on April 1, 1992.

J. Foley

Educated in Scotland, Mr. Jack Foley has had 25 years of work experience in the British and Canadian corporate and group insurance industry as underwriter, administrator, and senior consultant. He has also worked as a senior pension administrator and employee benefits planner at both provincial and municipal levels in Alberta. He is currently employed with the City of Edmonton as a Benefits Planning Manager. His professional interests include founding and teaching the Employee Benefits Planning and Administration Certificate Program at N.A.I.T., and sitting on the Canadian Pension Plan Appeals Board as Chairman/Member. His term of office expires on April 1, 1992.

B. L. Railey

Mrs. Railey received her primary and secondary education in Edmonton, Alberta. She graduated from the Faculty of Nursing, Indiana University, U.S.A. and held various certificates in the nursing field. She has served in the capacities of staff nurse, nurse consultant, nursing personnel officer and is currently the unit manager of Station 51 at the Edmonton General (Grey Nuns) Hospital. She also sits on a number of committees and is actively involved in community programmes. Her term of office expires on April 1, 1992.

V. Sedo

Mr. Victor Sedo was appointed to the Board in 1989 as representative of the Alberta Federation of Labour. He graduated from Pacific Lutheran University with a Bachelor of Arts in Sociology and Philosophy with a sequence in Medical Social Work. He also attended Humber College Employee Benefit Program. Prior to joining the Alberta Union of Provincial Employees (AUPE) in 1975 as a Benefits Officer, Mr. Sedo was employed as a Medical Social Worker at the Glenrose Rehabilitation Hospital. Mr. Sedo administers AUPE's Welfare and Education Trust Funds and also holds positions on other judicial boards and community organizations. His term of office expired on April 1, 1991.

Staff

The Staff of the Chairman's office provides administrative and professional support to the five pension Boards:

- The Local Authorities Pension Plan Board
- The Public Service Pension Plan Board
- The Public Service Management Pension Plan Board
- The Universities Academic Pension Plan Board
- The Special Forces Pension Plan Board

In matters requiring technical advice and support, the staff seek assistance from an actuarial or consulting firm. Many working papers are prepared to provide information and background to Board members.

In respect of legal advice, the firm of de Villars Jones has been retained as the Board's legal consultant.

SUMMARY OF APPEALS

Provisions

The Act provides that decisions of the Minister, which adversely affect plan members' rights under the pension plan in any of the following areas, can be appealed:

Participation	Contributions
Pensionable Service	Prior Service
Benefits	

The Act also provides for application to the Board for extension of time limits in respect of pension benefits and benefit choices. Under the terms of the various reciprocal transfer agreements, the Board is empowered to extend time limits on breaks in service and on applications, at its discretion.

The provisions dealing with applications under section 10 and appeals under section 35 are outlined for easy reference in Appendix A - excerpts from the Act.

Parties aggrieved by a decision of the Board under section 36 of the Act may appeal to the Court of Queen's Bench within 30 days on questions of law or jurisdiction.

Procedure

A ministerial prescribed Notice of Appeal form is normally provided to the plan member by Payroll and Pensions Division of Alberta Treasury with any adverse administrative decision. The aggrieved member must complete and submit this form when filing an appeal to the Board. It may also be used for applications for time limit extensions under the Act or under reciprocal transfer agreements.

Assistance to appellants is available from the Chairman's office. The individual may seek advice on what facts to gather and how these should be presented.

Though hearings are conducted in an informal manner, the Board is guided by the pension legislation and adheres to the principles of natural justice and fairness. The Board has published a Pension Appeal Process brochure which provides guidelines for members of the Alberta Pension Plans.

The Board has authorized the Chairman to reimburse appellants and applicants appearing before it for reasonable travel and out-of-pocket expenses. This ensures that all appellants and applicants have the opportunity to appear and present their cases irrespective of their places of residence.

Summary of Appeals and Applications (1990)

During 1990 the LAPP Board decided on 47 appeals and applications, compared to 35 dealt with in the previous year. The Board granted or varied 72% and 74% of the cases in 1990 and 1989 respectively.

In 1990, 60% of the appellants and applicants or their representatives attended their hearings before the Board. This compares to 54% in 1989.

Summary of Appeals and Applications for 1990, by categories, with comparative figures for 1989 - LAPP Board

	1990			1989		
Category	#	% of Total	% Granted or Varied	#	% of Total	% Granted or Varied
Reciprocal Transfer	21	45%	67%	13	37%	77%
Time Limit Extensions (Section 10)	12	25%	75%	4	11%	100%
Appeals (Section 35)	14	30%	79%	18	51%	67%
TOTAL	47	100%	72%	35	100%	74%

Six appeals were filed but did not require a hearing by the Board - the appeal provision was relied upon to facilitate a resolution and the cases were either granted by Payroll and Pensions Division (P & P) or withdrawn.

The following is intended to provide a cross-section of appeals and applications and is not an exhaustive description of cases heard by the Board.

Appeal #1 - Reciprocal Transfer

The applicant terminated employment with an employer (a hospital) under the Public Service Pension Plan (PSPP) in April 1988 and left contributions on deposit for later disposition. In October 1988 the applicant commenced employment and contributions with an employer under the Local Authorities Pension Plan (LAPP). She requested a transfer from the PSPP to the LAPP and was denied because of the three-month time limit in the agreement.

The applicant gave the following extenuating circumstances for granting the extension of the time limit. She terminated employment with the exporting employer for health reasons directly related to her job. Within a week of resigning from her job, her blood pressure had returned to normal. Secondly, she was not aware of the time limit on break in service for transfer under the agreement. She was under the impression that by leaving her contributions on deposit, she would be able to continue with the pension plan once she became employed with a hospital again. Thirdly, she was unsuccessful in obtaining full time employment in her field after terminating employment with the exporting employer. Therefore, she enroled in a university programme in September 1988. Then a part-time position became available with the importing employer and she had since been working part-time (20 hours per week) while studying at the university. The programme was scheduled to be completed in April 1990.

Payroll and Pensions' (P & P) Division refused the application to transfer on the basis of administrative policy. Cases where the time limits had been exceeded were referred to the Board for consideration.

The Board extended the time limit on the break in service to allow the transfer from the PSPP to the LAPP under the reciprocal agreement. The Board was satisfied that the break was caused by illness and education.

Appeal #2 - Upgrade of a Partial to a Total Disability Pension

The Minister granted the appellant a partial disability pension when the appellant retired in September 1987. In November 1987 the appellant wrote the Minister requesting a total disability pension. After reviewing the medical evidence provided by the appellant, the Minister's medical consultant recommended the continuation of a partial disability pension since no new medical evidence had been provided to support a change. Accordingly, the Minister rejected the appellant's request for an upgrade.

The appellant suffered from a degenerative disc condition and experienced a lot of pain and discomfort. Her quality of life had been curtailed to the point where she was unable to do many of the normal functions at home and in the yard. The doctors had recommended a possibility for surgery.

The Board vacated the Minister's decision and upgraded the pension to total disability effective June 1989. The Board determined that the medical reports indicated the appellant's condition had deteriorated to the point where she was totally disabled from gainful employment. It was also noted that the appellant was granted a total disability pension from Canada Pension Plan in September 1988.

Appeal #3 - Time Limit to Purchase a Leave of Absence

The applicant took a leave of absence from March to May 1987 while participating under the Local Authorities Pension Plan (LAPP). The deadline to purchase the leave was June 1988. The applicant applied through the employer in late 1987 to purchase the leave. However, the Minister did not receive the application until August 1989. Notwithstanding the fact that the employer assumed responsibility for the delay in submitting the request, the Minister denied the application. The reason for the refusal was that both the employer and the applicant were considered to be responsible for applying to purchase the leave before the deadline.

The employer, on behalf of the applicant, requested an extension of the time limit to purchase the leave. The employer advised in writing that because of an administrative error, the application was not submitted to the Minister before the deadline. The situation was beyond the applicant's control.

On the basis that the applicant was not materially at fault in missing the time limit, the Board extended the time limit to permit him to purchase his leave of absence.

Appeal #4 - Costing of Prior Service

The appellant commenced employment with a participating employer under the Local Authorities Pension Plan (LAPP) and was put on a waiting period of one year for purposes of the LAPP. He received all other employee benefits except the LAPP. At the end of the first year of employment, he was not approached by the employer about the plan though he had indicated his desire to join the plan at commencement of employment. On enquiring with the employer, he was advised that it would not be a problem if he wanted to purchase service at a later date and the employer would pay its share of the contributions. Since he was not in a good financial position at the time, he decided not to establish the service immediately. In respect of the employer's claim that his employment had a predetermined end-date, the appellant stated that he had been given another position following his initial employment in a different capacity. However, he could not remember when exactly the transition took place. He was also given additional duties of two other positions which had no predetermined end date. He maintained that at no time during the job interview or the hiring process was he told that his employment was going to be short-term in nature. The appellant indicated that there were two instances of his co-workers not being advised of pension plan participation as a condition of employment. Finally, he questioned the tardiness of the Administration in invoicing the employer so long after the fact.

The employer was represented at the hearing. The employer indicated that the initial position occupied by the appellant had an end date by virtue of the funding of the programme. A copy of the job advertisement showed that the programme would be for a period of 4-5 years. The appellant was hired as a full-time temporary employee

in 1977. In 1981 the appellant raised the question of establishing prior service. He was advised by the employer that he did not participate in the pension plan and no further action was taken on the issue and the employer assumed that the matter had been concluded. The employer unexpectedly received an invoice for the employer's contributions and decided not to pay the amount requested. The employer did not have a pension plan participation policy on record.

The Minister advised that the administrative procedure in dealing with similar cases have now been changed so that the employers are billed immediately and the employees are billed when establishing this type of service. In terms of the participation policy in place in 1979, the Minister understood that the employer had enroled all their full-time continuous employees in the LAPP, however the employer would not necessarily have to include seasonal/sessional or project employees such as the appellant. It was only in 1985 that employees in a project position were allowed to enter the LAPP.

The Board confirmed the Minister's decision and dismissed the appeal. It was based on the fact that the individual was employed in a term certain position and there was considerable doubt of employment beyond the period in question.

ADVICE

The Board is empowered to "advise the Minister respecting any matters relating to the plan" (Section 9 of the Act). These include adequacy of contributions, benefits, actuarial assumptions, rates of interest etc. In total, this covers virtually all aspects of plan administration and fund management. In reviewing the advice offered by the Board, it is appropriate to measure it against some standard or test. The standard used to evaluate the management of a pension plan is the fiduciary standard. It can be argued that the Minister, as the administrator of the plan, is a fiduciary. It can also be argued that the Board through its statutory responsibility to advise the Minister should be judged on the same basis.

A fiduciary is someone who has acquired a position of trust on the condition that he will act in the best interests of another. For a pension plan, the duty of the fiduciary is to act in the best interests of the plan beneficiaries. In the case of the LAPP, the beneficiaries could be argued to include:

(1) The plan member as someone who contributes and expects to receive a benefit from the plan.

(2) The spouse, dependant or estate of the plan member, to the extent they are entitled to a benefit, contingent or vested, under the plan.

(3) The employer under the plan to the extent that the employers contribute to the plan and rely on the plan to provide a pension benefit to their employees.

(4) The taxpayer, through his agent the provincial government, by virtue of the guarantee affixed to the benefit and therefore potential responsibility for any unfunded liability of the plan.

In evaluating the Board's advisory record on the basis of a fiduciary, one can look both at its specific recommendations and its leadership in a broader consultative role. The Board's recommendations can be found in a number of letters and reports to the Minister. **"Security of Benefits and Funding..."** was a report presented to the Minister in May 1990 which proposed a "fix-up" of the LAPP in anticipation of pension reform. In December 1990 a report, **"The Disability Provision In The LAPP"**, was forwarded to the Minister and contained recommendations regarding the disability provision in the LAPP. The proposals contained in these reports and other letters are summarized in Appendix C and include recommendations on:

(1) Funding

(2) Cost of Living Adjustment (COLA)

(3) Pension Reform (Including Portability, Participation, Vesting and Interest Rates Applied to Withdrawals)

(4) Disability Provision

(5) Prior Service

(6) Division of Pension Benefits on Marriage Breakdown

As a whole, the Board's recommendations advocate greater accountability, more adequate funding, minimizing opportunities for selection against the fund, and recognition and management of the risks faced by all "beneficiaries."

In addition to this direct advice, the Board also engages in a broader consultative role. The Annual Seminar provides an opportunity for stakeholders in the various public sector "pension deals" to discuss issues in an open forum. This year's seminar focused on plan governance. As pre-work for the seminar, a discussion paper titled **"Plan Governance: A Framework For Discussion"** was circulated to all participants. Through a series of presentations by outside speakers, panel discussions and workshops, representatives of employees, employers, Treasury, and interested parties were able to speak directly on the issue of governance. An overview of the seminar can be found in Appendix D.

The proceedings of the seminar pointed to a consensus among the participants that governance was important and, given its linkages to all issues facing the plan, should be addressed. The executive summary, **"A Logical Next Step: Developing The Consultative Process,"** focused on what sort of process could be put in place to deal with the issue. Based on the consensus established at the seminar, a proposal was presented to the Minister early in 1991 that the governance and funding of the plan be reviewed. Such a review would allow for input from all "beneficiaries" and enable a consensus to be established regarding these two critical issues.

The Minister did respond and indicated that, in addition to tax reform, other changes related to "financing, benefit and administrative changes" were being considered. At the time of writing, details of the Minister's plan amendments and process for consultation were still forthcoming. It is expected that the proposed changes and anticipated consultations will guide Board activities in 1991.

APPENDIX A

Excerpts from the Act

The following excerpts of the Local Authorities Pension Plan Act define the make-up and responsibilities of the Local Authorities Pension Plan Board

Establishment, composition, term of office, etc.

5(1) There is hereby established a board known as the Local Authorities Pension Plan Board.

(2) The Board shall consist of not fewer than 5 persons appointed members of the Board by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council shall appoint 1 of the members of the Board from among participants and another from among persons nominated by the employers.

(4) A member of the Board holds office for the term fixed in relation to him by the Lieutenant Governor in Council.

(5) The Minister may prescribe the remuneration and expenses to be paid to members of the Board.

(6) The Board may make rules respecting the calling of and the conduct of business at its meetings.

Chairman and Vice-chairman

6(1) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman and another member to be the vice-chairman of the Board.

(2) The vice-chairman shall act as chairman when the office of the chairman is vacant or when the chairman is absent or unable to act.

Support services

7 The Minister shall provide such supplies, services and accommodation as he considers necessary to enable the Board to fulfil its objects.

Objects of the Board

8 The objects of the Board are

(a) to conduct the hearing of appeals under Part 6;

(b) to provide advice to the Minister under section 9;

(c) where appropriate, to extend time limits and treat benefit choices as revoked under section 10;

(d) *to exercise and perform any other powers and duties assigned to it by this Act and the regulations;*

(e) *to perform any other duties relating to the Plan that are assigned to it by the Minister.*

Advisory functions of the Board

9 *The Board may advise the Minister respecting any matters relating to the Plan, including*

(a) *the adequacy of contributions to meet benefits,*

(b) *adjustments to pensions under section 27,*

(c) *rates of interest for the purposes of the Plan,*

(d) *benefits,*

(e) *reciprocal agreements,*

(f) *recognition of prior service,*

(g) *eligibility and participation in the Plan, and*

(h) *the actuarial tables prescribed or to be prescribed by the Minister.*

Board's power to extend time limits, etc.

10(1) *Where*

(a) *a person fails to meet a time limit under the Plan,*

(b) *the failure will or could result in a person's obtaining different benefits than those he would have obtained had the time limit been met, and*

(c) *the Board is satisfied that the failure results from circumstances that import no material fault on the part of that person,*

the Board may, on application to it, extend the time limit.

(2) *Where*

(a) *the circumstances set out in subsection (1)(a), (b) and (c) apply,*

(b) the benefit has been received or has commenced to be paid, and

(c) the Board is satisfied that a choice, including a deemed choice, that would otherwise be irrevocable under section 40(2) could materially prejudice the best interests of the recipient or his dependants,

the Board may, on application to it, treat that choice as revoked, extend the time limit for making the choice and order any consequential adjustments in the benefits.

(3) Where

(a) a benefit choice has been made, and

(b) the Board is satisfied that

(i) the choice communicated to the Minister was not that which the person making the choice actually intended, and

(ii) the application mentioned in this section does not result from a change in a person's circumstances affecting the choice,

the Board may, on application made to it within 3 months from the date when the benefit was received or commenced to be paid, treat the choice as revoked and substitute for it the choice which, in the Board's opinion, the person originally intended to make and order any consequential adjustments in the benefits.

Appeal to the Board

35(1) A party aggrieved by a decision of the Minister under or in relation to Parts 2 to 5 or the prescribed provisions of the regulations, other than a decision under section 32 or one that could be the subject-matter of an application under section 10, may appeal against that decision to the Board.

(2) A party wishing to appeal to the Board under this section must serve the chairman of the Board with a notice of appeal in the form prescribed by the Minister within 30 days of being notified in writing of the decision appealed against or within such longer period as the Board may, on application, allow.

(3) The notice of appeal must specify the decision appealed against and the grounds of appeal.

(4) The Board may identify persons who may be interested in the appeal and may give directions as to the persons to be served with the notice of appeal, whether or not they are parties.

(5) For the purposes of conducting an appeal under this section, the Board

(a) has all of the duties, powers, privileges and immunities given to a commissioner appointed under the Public Inquiries Act by sections 3, 4, 7 and 9 of the Act, and

(b) shall be deemed to be a person authorized for the purposes of section 1(a) of the Administrative Procedures Act.

(6) The Board may confirm, vacate or vary the decision appealed against.

(7) The Board shall serve the appellant and persons who received a notice of appeal with a copy of its decision, including the reasons for the decision.

Appeal to the Court of Queen's Bench

36(1) A party aggrieved by a decision of the Board under section 35 may, within 30 days of the date of service of the Board's decision on him or such longer period as the Court may allow, appeal to the Court of Queen's Bench on a question of law or jurisdiction.

(2) The procedure in an appeal to the Court of Queen's Bench shall be the same as that provided in the Alberta Rules of Court for applications by originating notice.

(3) The Court of Queen's Bench, on hearing the appeal, may confirm, vacate or vary the decision of the Board or make any order it considers just.

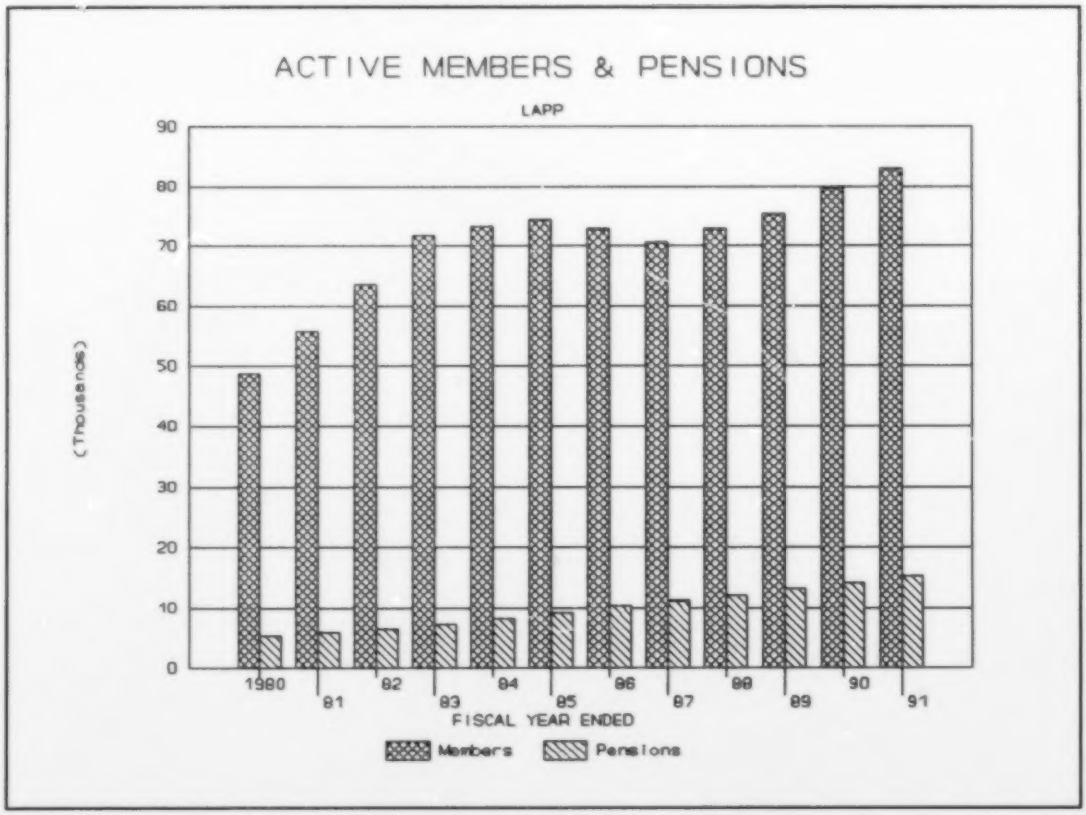
APPENDIX B

Summary of Plan Statistics

Statistics are provided by Payroll and Pensions Division of Alberta Treasury and interpreted by the Alberta Government Pension Boards office.

A. Active Members

Active membership in the Local Authorities Pension Plan increased from 48,734 at March 31, 1980 to 83,056 as at March 31, 1991. The following graph shows the relative changes from 1980 through 1991:



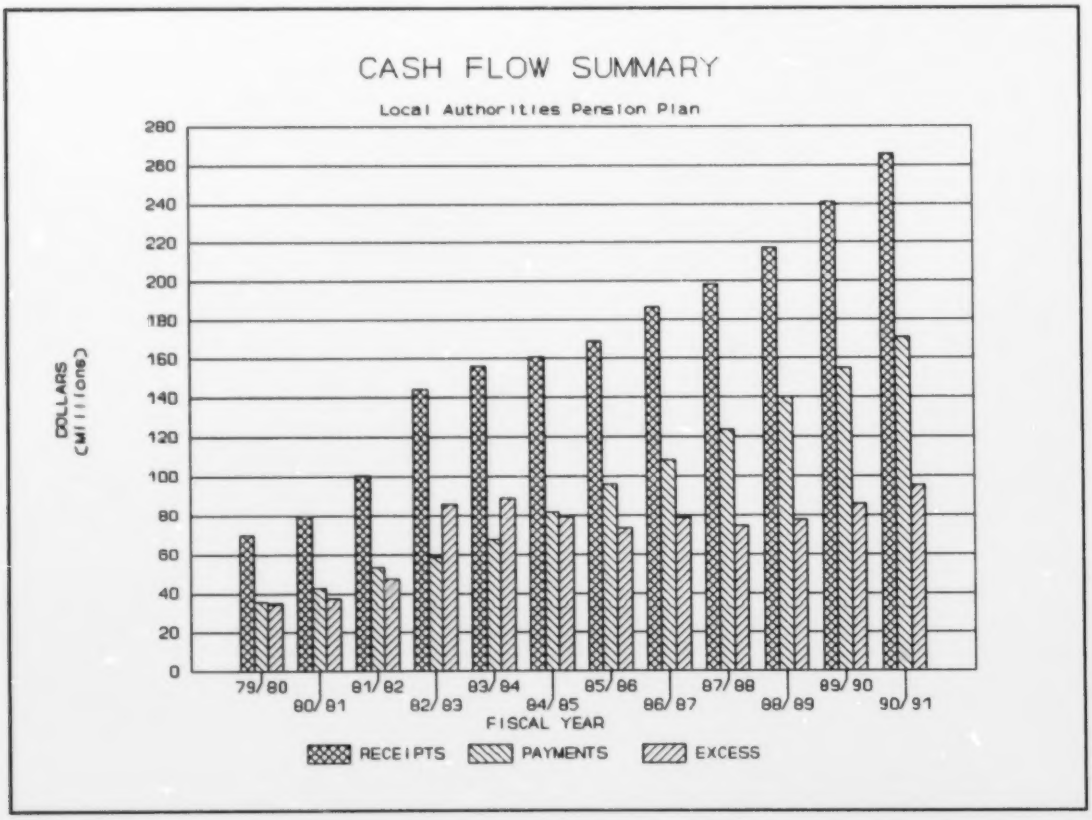
B. Pensions in Payment

Pensions in payment increased from 5,370 at March 31, 1980 to 15,260 as at March 31, 1991. The previous graph illustrates the relative increases.

The average pension in payment was $468.45 per month on March 31, 1980 and increased to $826 per month for pensioners and $629 per month for surviving spouses on March 31, 1991.

C. Cash Flow Summary

The graph below reveals that receipts were $70,058,136 for the fiscal year 1979/80 and increased to $265,670,000 in fiscal year 1990/91. Payments increased from $35,393,257 in fiscal year 1979/80 to $170,681,000 in fiscal year 1990/91. The excess contributions were $34,664,880 in fiscal year 1979/80 and $94,989,000 in fiscal year 1990/91.



APPENDIX C

Board Recommendations

1. <u>Funding:</u>

Status Quo Employee and employer contribution rates are established within the legislation. Net cash flow (contributions in excess of pension payments) is directed into a common "pension fund" created for five public sector pension plans. The LAPP and the other four plans have accrued a significant unfunded liability. The plan is valued using conservative actuarial assumptions.

Recommendation

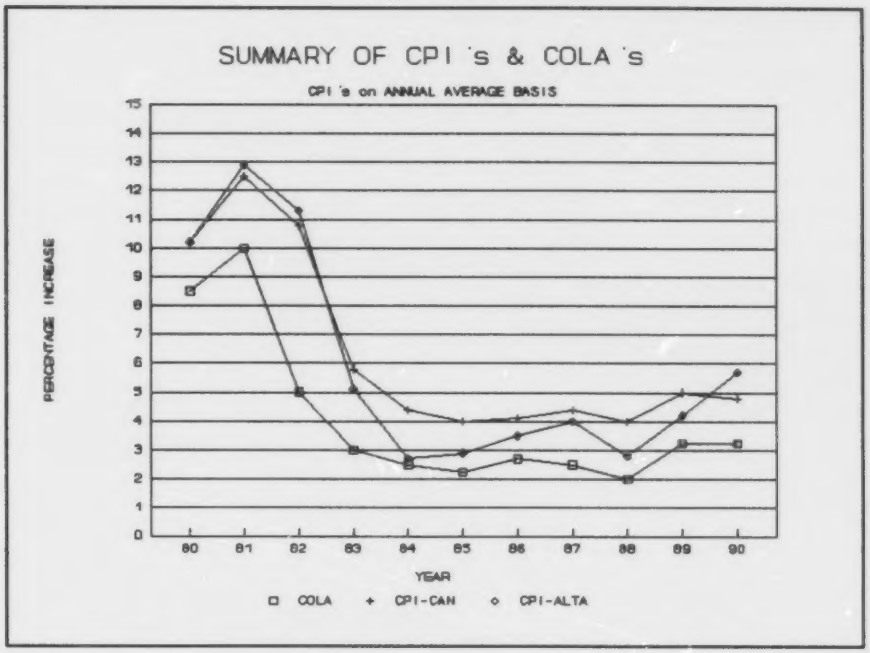
The Board has recommended that there be a separate allocation and accounting of funds for each plan. The employer and employee contribution rates should continue to equal the current service cost of the plan. Actuarial assumptions used to establish the current service cost should be determined by a joint committee of employee/employer/government representatives and be less conservative than those currently used. The government should take steps to reduce the accumulated unfunded liability. Contribution rates should be set in regulations so that appropriate adjustments may be made without having to "open the Act".

Impact Separate accounting would ensure that the LAPP receive full recognition for meeting its current service costs. Extra payments by the government towards the unfunded liability would increase the security of the plan and reduce inter-generational transfers by paying for public service costs in the period in which they were consumed. By adopting the funding objective of meeting current service costs, a price discipline will be imposed on the management of the plan. Setting the actuarial assumptions on a joint basis would reflect the shared risk/reward nature of the funding methodology. Using less conservative assumptions would put current contributions in line with the normal cost of the plan.

2. <u>COLA:</u>

Status Quo Cost of living adjustments to the plan are granted annually (since 1962) by the Minister. The actuarial valuations contemplate a COLA on the basis of 75% of the Consumer Price Index (CPI).

The actual COLA that has been granted has fallen short of that target level throughout most of the last 10 years.



The graph above shows the COLA's granted on January 1 following the years 1980 through 1990, i.e. the COLA of 3.25% shown for 1990 was granted on January 1, 1991. The Consumer Price Index (CPI) increases are for the calendar years, i.e. CPI-CAN shown for 1990 is the 4.8% increase in the 1990 average CPI over the 1989 average CPI. During the 11-year period the average annual increases were as follows: Canada CPI - 6.3%, Alberta CPI - 5.9%, COLA's granted - 4.1%. Similarly, during the 5-year period 1986 through 1990 the average annual increases were as follows: Canada CPI - 4.5%, Alberta CPI - 4.0%, COLA's granted - 2.7%.

Recommendation

The Board has recommended that a COLA formula based on 75% of the Alberta Consumer Price Index be encoded in legislation. Based on this formula, the Board recommended that a COLA of 4.2% be granted effective January 1, 1991. The adjustment granted by the Lieutenant Governor in Council was 3.25%.

Impact Encoding COLA would not increase the current service cost of the plan since it has already been taken into account by the actuaries. However, it would strengthen the security of the benefit for which current participants are now being charged.

3. <u>Pension Reform:</u>

Status Quo Currently the Plan allows the employer discretion whether or not to allow part time employees to participate. Vesting is based on five years of pensionable service. Pension benefits are "locked-in" when an employee becomes entitled to a pension benefit (i.e. age 55 and 5 years of pensionable service). Credited interest to employee accounts is fixed in legislation at 4%. Transfer of funds is allowed under the terms of a reciprocal agreement or through the withdrawal/transfer of the employee portion and credited interest.

Recommendation

The Board has recommended that:

(a) Employer's discretion to allow participation should be discontinued. The requirement for minimum hours to be served by part time continuous employees should continue.

(b) Vesting should be based on five years of participatory service.

(c) Locking-in should occur at the same time a person becomes vested under the plan.

(d) When crediting interest to employee accounts, the rate should be at a published market rate such as the annual average yield on the 5-year personal fixed term deposits.

(e) On termination of service, transfer of a vested pension should be the same as required by the Alberta Employment Pension Plans Act.

(f) Current reciprocal agreements should be reviewed with the goal of pricing transfers on a commuted value basis.

Impact These changes would:

(a) Bring the Plan into line with community standards regarding portability, vesting, and credited service.

(b) The Plan would be more equitable in terms of participation and a fairly priced termination benefit.

(c) The Plan would be protected against the import of unfunded liability through reciprocal agreements.

4. **Disability Provision:**

Status Quo The plan pays a partial or total disability benefit if the member has 5 years of service, is not on an approved LTDI plan and has terminated employment. A partial disability is based on inability to do the original job while a total is based on incapacity for "gainful employment". Unlike the other public sector pension plans, a significant number of employers do not have "approved" LTDI plans.

Recommendation

The Board has recommended that the disability provision be retained within the plan design. To minimize the impact of judicial interpretation, a more quantitative definition for "gainful employment" was suggested. To encourage the adoption of "approved" LTDI plans and to minimize any cross-subsidization between employers with and without approved LTDI plans, it was suggested that the contribution rates be fine tuned.

Impact These recommendations would protect the plan from adverse or liberal judicial review in determining partial and total disabilities. The benefit, which is part of the existing pension deal, would be retained. By encouraging the adoption of approved LTDI plans, members would receive a more uniform benefit and security of that benefit. Employers could make a cost decision.

5. **Prior Service:**

Status Quo Currently the plan offers a variety of prior service buy backs. The costs levied vary depending on date of application, the type of service being purchased, or years since the prior service was rendered. The costs do not relate to the resulting increase in pension since the formula for calculating prior service is not based on an actuarial formula. A significant part of the growth in the unfunded liability can be attributed to the prior service costing provisions.

Recommendation

The Board has recommended that recognition of prior service be limited and that pricing of remaining types of service be on an actuarial basis. These changes would be implemented in conjunction with a review of portability under the plan.

Impact The changes would reduce inequities between employees, increase fiscal responsibility, and lower administrative costs.

6. **Division of Pension Benefits on Marriage Breakdown:**

Status Quo Current methods available for dividing pension benefits are Valuation and Accounting and Division of Proceeds. The pension administration will not assign a value to a benefit, therefore on marriage breakdown the parties must seek advice from an independent source.

Recommendation

The Board has recommended the implementation in Alberta of the recommendations of the Institute of Law Research and Reform. Valuations should be available at the request of either the member or former spouse, without the necessity of obtaining an order from the Court. The administration should have authority to "Value and Divide" the pension if all parties agree to the action.

Impact Using the Valuation and Division approach would serve to increase cash outflow from the Pension Fund in the short run. There would be additional cost in valuing the benefits and actuarially adjusting the employee's benefits at termination, death or retirement. These costs, however, can be charged to the parties when processing specific requests. The net result would be an easier and less costly division for participants and their spouses.

APPENDIX D

Summary of the Annual Seminar

The Annual Seminar, an event hosted by the Alberta Government Pension Boards Office on behalf of all Government Pension Boards, was expanded this year and proved to be very successful. The Seminar focused on a single issue, plan governance. A pre-work discussion paper on plan governance was distributed before the seminar. This put the questions related to plan governance on the table before the seminar began and gave participants an opportunity to develop their thinking before hand. Three panellists were charged with responding to the questions raised by the pre-work.

The question of governance was initially explored by Mr. Keith Ambachtsheer, of Keith P. Ambachtsheer & Associates Inc., a highly respected consultant who was a principal advisor to the influential Ontario Task Force of the Investment of Public Sector Pension Funds. He brought a challenge to the group to look at the issues facing them with an open mind. He encouraged the interaction of all parties involved in pensions with each other to bring about an acceptable and stable system. Mr. Ambachtsheer left two questions with the group.

1. "Should Alberta institute a formal process to decide how to best deliver public service pensions in the 1990's and beyond, keeping in mind the interests of both Alberta public servants and taxpayers?

2. What kind of process is most likely to answer question 1?"

From the practical point of view of governance, Mr. A. W. Reeve, Executive Director of OMERS, presented the experience of a self-administered public sector plan. He pointed out that OMERS was an administrative board with a professional staff which is responsible for the total operation of the plan, from everyday administration to investments and investment policy. OMERS has grown from a 1 billion dollar fund in 1963 to an 13 billion dollar fund in the 1990's.

Mr. A. D. O'Brien, Deputy Provincial Treasurer, addressed the seminar on the fiscal framework of governance from the perspective of the Alberta Government. After reviewing the history of the system in Alberta he stated that the Government was very concerned about the growing liabilities and demands made for increased benefits. He concluded that "decision making power should be apportioned according to who bears the financial risk." He stated that "The Government is not willing to expose itself to increased risk without mechanisms to ensure that experience shortfalls and benefit improvements are covered."

In addition to the panel, there were presentations on the administration of the plan, investment management of the pension fund and the advisory/quasi-judicial roles of the Boards. Of particular interest was the discussion by Professor John M. Law of the University of Alberta on the quasi-judicial and fiduciary responsibilities assigned to the Pension Boards. He concluded that even if the Boards are not considered fiduciaries, they must exercise a fiduciary standard when providing advice to the Minister on matters relating to the plan. They must make their recommendations taking into consideration the continuing life of the plan, the beneficiaries of the plan and the taxpayers. With regards to the Boards' quasi-judicial role, Professor Law noted that the Courts were willing to acknowledge the Boards' expertise in dealing with pension disputes. Citing from recent court decisions, he stated that the Courts have concluded that a court "should not interfere with an interpretation made by bodies having the expertise...in an area within their jurisdiction unless the interpretation is not reasonable or is clearly wrong." [Alberta Court of Queen's Bench, November 6, 1990, The Queen v. Palsat and the Public Service Management Pension Plan Board, Unreported].

Workshops were used to facilitate discussion among participants. Each group was asked to comment on the issues raised by the speakers and respond with its view of what should be the next step. It was from this feedback that the proposal, noted in the section Advice, was drafted for a process for consultation and was forwarded to the Minister. It was the view of seminar participants that issues such as funding could not be dealt with in isolation of governance. Further, the issues of funding and governance should be dealt with. Finally, a process of consultation should be put in place to address the issues.